

REMARKS

In response to the Examiner's Restriction Requirement dated May 17, 2007, Applicants hereby elect Group I (claims 11-31) for examination, with traverse, and without prejudice to pursue unelected subject matter in continuation or divisional applications. Pursuant to the Examiner's Election of Species Requirement, Applicants hereby elect, with traverse, the Antacids species, corresponding to claims 1-16, 21-43, and 46-66. Applicants respectfully note that original claims 1 to 10 were previously cancelled by a preliminary amendment.

The requirement of unity of invention under PCT Rule 13.1 is met when there is a technical relationship among the inventions involving one or more "special technical features." PCT Rule 13.2. PCT Rule 13.2 is met for a claim that defines alternative compounds when:

- (A) All alternatives have a common property or activity; and
- (B)(1) A common structure is present . . . ; or
- (B)(2) In cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

MPEP § 1850(III)(B) (emphasis added). However, the Examiner stated in the Office Action that "Unity of invention can be demonstrated by significant structural similarities. . . . [N]o significant structural similarities can be ascertained for the listed species." Office Action at 4. Applicants respectfully submit that the proper criteria for requiring an election of species have not been considered or met.

The Examiner has failed to consider that the listed species belong to "a recognized class of chemical compounds in the art to which the invention pertains." "A recognized class of chemical compounds" means that "there is an expectation from the knowledge in the art that members of the class will behave in the same way in the context of the claimed invention." MPEP § 1850(III)(B). The listed species are all recognized as members of a class of chemical compounds that reduce the amount of gastric acid in the gastric region. The claimed invention involves a vaccination wherein an antigenically active substance is introduced to the gastric region where conditions permit the formation of antibodies due to a reduced

presence of gastric acid. In the context of the claimed invention, antacids, H₂-receptor agonists, and proton pump inhibitors, have the common property or activity of reducing gastric acid. Accordingly, Applicants respectfully request reconsideration and withdrawal of the outstanding election of species requirement.

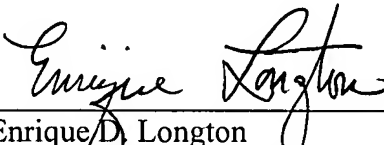
EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Director is hereby authorized by this paper to charge any additional fees during the entire pendency of this application, including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 13-3250, reference No. 37488.00400. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

If the Examiner finds that a telephone conference would further prosecution of this application, she is invited to contact the undersigned at 202-835-7525.

Respectfully submitted,

MILBANK, TWEED, HADLEY & McCLOY LLP

By:


Enrique D. Longton
Registration No., 47,304

June 18, 2007

Customer No. 38647
MILBANK, TWEED, HADLEY & McCLOY LLP
1850 K St., NW Suite 1100
Washington, DC 20006
Tel. No. (202) 835-7525
Fax No. (202) 835-7586